

NEW YORK STATE SUPREME COURT
NEW YORK COUNTY

-----X Index No.: _____

M.M., Date Filed: _____

Plaintiff,

SUMMONS

-against-

ARCHDIOCESE OF NEW YORK and SACRED HEART
PARISH, Plaintiff designates New York
County as the place of trial.

Defendants.

The basis of venue is one
defendant's residence.

Child Victims Act Proceeding
22 NYCRR 202.72

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TO THE ABOVE NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the plaintiff's attorneys within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: August 20, 2019

Respectfully Yours,
MARSH LAW FIRM PLLC

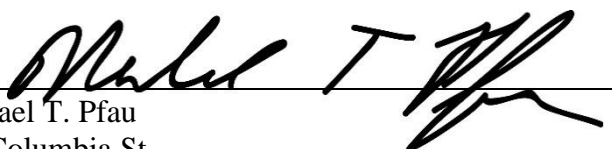
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NEW YORK STATE SUPREME COURT
NEW YORK COUNTY

-----X Index No.: _____/____

M.M.,

COMPLAINT

Plaintiff,

-against-

ARCHDIOCESE OF NEW YORK and SACRED HEART
PARISH,

**Child Victims Act Proceeding
22 NYCRR 202.72**

Defendants.

Plaintiff, by and through his attorneys, the Marsh Law Firm PLLC and Pfau Cochran Vertetis Amala PLLC, respectfully alleges for his complaint the following:

I. INTRODUCTION

1. The Archdiocese of New York (the “Archdiocese”) knew for decades that its priests, clergy, religious brothers, religious sisters, school administrators, teachers, employees, and volunteers were using their positions within the Archdiocese to groom and to sexually abuse children. Despite that knowledge, the Archdiocese failed to take reasonable steps to protect children from being sexually abused and actively concealed the abuse.

2. In April of 2019, following decades of denial and cover-up, the Archdiocese released a list of 120 priests that it determined had been credibly accused of sexual abusing children. Based on the Archdiocese’s years of wrongful conduct, a reasonable person could and would conclude that it knowingly and recklessly disregarded the abuse of children and chose to protect its reputation and wealth over those who deserved protection. The result is not surprising:

hundreds, if not thousands, of children were sexually abused by Catholic clergy and others who served the Archdiocese. The plaintiff in this lawsuit is one of those children who was sexually abused because of the Archdiocese's wrongful conduct.

II. PROCEEDING IN ACCORDANCE WITH CPLR 214-G AND 22 NYCRR 202.72

3. This complaint is filed pursuant to the Child Victims Act (CVA) 2019 Sess. Law News of N.Y. Ch. 11 (S. 2440), CPLR 214-G, and 22 NYCRR 202.72. The CVA opened a historic one-year one-time window for victims and survivors of childhood sexual abuse in the State of New York to pursue lapsed claims. Prior to the passage of the CVA, the plaintiff's claims were time-barred the day he turned 22 years old. The enactment of the CVA allows plaintiff to pursue restorative justice in New York State.

III. PARTIES

4. Plaintiff M.M. is an adult male who currently resides in Wallkill, New York.

5. While he was a minor, plaintiff M.M. was a victim of one or more criminal sex acts in the State of New York. Since such criminal violation is the basis for this action, plaintiff M.M. is entitled to the protection of Civil Rights Law 50-b and will file a motion asking this Court for permission to proceed using a pseudonym.

6. In the alternative, plaintiff M.M. will seek a stipulation from the defendants agreeing to enter into a protective order which will ensure that his identity is protected from the public while allowing the defendants full access to information necessary for their defense.

7. Upon information and belief, the Archdiocese is currently a not-for-profit religious corporation organized under New York law with its principal office in New York, New York.

8. Upon information and belief, at all relevant times the Archdiocese conducted business as the "Archdiocese of New York," "New York Archdiocese," or "Archdiocese."

9. Upon information and belief, at all relevant times the Archdiocese employed priests and others who served various Catholic institutions and families, including plaintiff M.M. and his family.

10. Upon information and belief, Father Arthur Manzione (“Father Manzione”) was a priest employed by the Archdiocese to serve Catholic families, including plaintiff M.M. and his family. During the time Father Manzione was employed by the Archdiocese, he used his position as a priest to groom and to sexually abuse plaintiff M.M.

11. To the extent that the Archdiocese was a different entity, corporation, or organization during the period of time during which Father Manzione used his position as a priest to sexually abuse plaintiff M.M., such entity, corporation, or organization is hereby on notice that it is intended to be a defendant in this lawsuit.

12. To the extent the Archdiocese is a successor to a different entity, corporation, or organization which existed during the period of time during which Father Manzione used his position as a priest to sexually abuse plaintiff M.M., such predecessor entity, corporation, or organization is hereby on notice that it is intended to be a defendant in this lawsuit.

13. All such Archdiocese-related entities, corporations, or organizations are collectively referred to herein as the “Archdiocese.”

14. Upon information and belief, at all relevant times defendant Sacred Heart Parish (“Sacred Heart”) was a not-for-profit religious corporation organized under New York law and wholly owned, operated, and controlled by the Archdiocese.

15. Upon information and belief, Sacred Heart is currently a not-for-profit religious corporation organized under New York law with its principal office in Newburgh, New York.

16. Upon information and belief, at all relevant times Sacred Heart conducted business as “Sacred Heart Parish,” “Sacred Heart Church,” or “Sacred Heart.”

17. Sacred Heart is a parish with a church located in Newburgh, New York.

18. Upon information and belief, Father Arthur Manzione was a priest employed by Sacred Heart to serve Catholic families in its geographic jurisdiction, including plaintiff M.M. and his family. During the time Father Arthur Manzione was employed by Sacred Heart, he used his position as a priest to groom and to sexually abuse plaintiff M.M.

19. To the extent that Sacred Heart was a different entity, corporation, or organization during the period of time during which Father Manzione used his position as a priest to sexually abuse M.M., such entity, corporation, or organization is hereby on notice that it is intended to be a defendant in this lawsuit.

20. To the extent Sacred Heart is a successor to a different entity, corporation, or organization which existed during the period of time during which Father Manzione used his position as a priest to sexually abuse M.M., such predecessor entity, corporation, or organization is hereby on notice that it is intended to be a defendant in this lawsuit.

21. All such Sacred Heart-related entities, corporations, or organizations are collectively referred to herein as “Sacred Heart.”

IV. VENUE

22. Venue is proper because the Archdiocese is a domestic corporation authorized to transact business in New York with its principal office located in New York County.

23. Venue is proper because New York is the county in which a substantial part of the events or omissions giving rise to plaintiff’s claim occurred.

V. STATEMENT OF FACTS AS TO PLAINTIFF M.M.

24. Upon information and belief, at all relevant times the Archdiocese was the owner of Sacred Heart and held itself out to the public as the owner of Sacred Heart.

25. Upon information and belief, at all relevant times the Archdiocese, its agents, servants, and employees managed, maintained, operated, and controlled Sacred Heart.

26. Upon information and belief, at all relevant times the Archdiocese employed priests and others who served Catholic families at Sacred Heart, including plaintiff M.M. and his family.

27. Upon information and belief, at all relevant times the Archdiocese, its agents, servants, and employees managed, maintained, operated, and controlled Sacred Heart, and held out to the public its agents, servants, and employees as those who managed, maintained, operated, and controlled Sacred Heart.

28. Upon information and belief, at all relevant times the Archdiocese was responsible for the hiring and staffing, and did the hiring and staffing, at Sacred Heart.

29. Upon information and belief, at all relevant times the Archdiocese was responsible for and did the recruitment and staffing of volunteers at Sacred Heart.

30. Upon information and belief, at all relevant times the Archdiocese materially benefited from the operation of Sacred Heart, including the services of Father Manzione and the services of those who managed and supervised Father Manzione.

31. Upon information and belief, at all relevant times Sacred Heart owned a parish and church.

32. Upon information and belief, at all relevant times Sacred Heart held itself out to the public as the owner of Sacred Heart.

33. Upon information and belief, at all relevant times Sacred Heart employed priests and others who served Catholic families, including plaintiff M.M. and his family.

34. Upon information and belief, at all relevant times Sacred Heart, its agents, servants, and employees managed, maintained, operated, and controlled Sacred Heart, and held out to the public its agents, servants and employees as those who managed, maintained, operated, and controlled Sacred Heart.

35. Upon information and belief, at all relevant times Sacred Heart was responsible for and did the staffing and hiring at Sacred Heart.

36. Upon information and belief, at all relevant times Sacred Heart was responsible for and did the recruitment and staffing of volunteers at Sacred Heart.

37. Upon information and belief, at all relevant times Sacred Heart materially benefitted from the operation of Sacred Heart, including the services of Father Manzione and the services of those who managed and supervised Father Manzione.

38. Upon information and belief, at all relevant times Father Manzione was a priest of the Archdiocese.

39. Upon information and belief, at all relevant times Father Manzione was on the staff of, acted as an agent of, and served as an employee of the Archdiocese.

40. Upon information and belief, at all relevant times Father Manzione was acting in the course and scope of his employment with the Archdiocese.

41. Upon information and belief, at all relevant times Father Manzione was employed by the Archdiocese and assigned to Sacred Heart.

42. Upon information and belief, at all relevant times Father Manzione was a priest of Sacred Heart.

43. Upon information and belief, at all relevant times Father Manzione was on the staff of, was an agent of, and served as an employee of Sacred Heart.

44. Upon information and belief, at all relevant times Father Manzione was acting in the course and scope of his employment with Sacred Heart.

45. Upon information and belief, at all relevant times Father Manzione had an office on the premises of Sacred Heart.

46. When plaintiff M.M. was a minor, he and his parents were members of the Archdiocese and Sacred Heart.

47. At all relevant times, the Archdiocese and Sacred Heart, their agents, servants, and employees, held Father Manzione out to the public, to M.M., and to his parents, as their agent and employee.

48. At all relevant times, the Archdiocese and Sacred Heart, their agents, servants, and employees, held Father Manzione out to the public, to M.M., and to his parents, as having been vetted, screened, and approved by those defendants.

49. At all relevant times, M.M. and his parents reasonably relied upon the acts and representations of the Archdiocese and Sacred Heart, their agents, servants, and employees, and reasonably believed that Father Manzione was an agent or employee of those defendants who was vetted, screened, and approved by those defendants.

50. At all relevant times, M.M. and his parents trusted Father Manzione because the Archdiocese and Sacred Heart held him out as someone who was safe and could be trusted with the supervision, care, custody, and control of M.M.

51. At all relevant times, M.M. and his parents believed that the Archdiocese and Sacred Heart would exercise such care as would a parent of ordinary prudence in comparable circumstances when those defendants assumed supervision, care, custody, and control of M.M.

52. When M.M. was a minor, Father Manzione sexually abused him.

53. M.M. was sexually abused by Father Manzione when he was approximately 15 to 18 years old.

54. Based on the representations of the Archdiocese and Sacred Heart that Father Manzione was safe and trustworthy, M.M. and his parents allowed M.M. to be under the supervision of, and in the care, custody, and control of, the Archdiocese and Sacred Heart, including during the times when M.M. was sexually abused by Father Manzione.

55. Based on the representations of the Archdiocese and Sacred Heart that Father Manzione was safe and trustworthy, M.M. and his parents allowed M.M. to be under the supervision of, and in the care, custody, and control of, Father Manzione, including during the times when M.M. was sexually abused by Father Manzione.

56. Neither M.M. nor his parents would have allowed him to be under the supervision of, or in the care, custody, or control of, the Archdiocese, Sacred Heart, or Father Manzione if the Archdiocese or Sacred Heart had disclosed to M.M. or his parents that Father Manzione was not safe and was not trustworthy, and that he in fact posed a danger to M.M. in that Father Manzione was likely to sexually abuse M.M.

57. No parent of ordinary prudence in comparable circumstances would have allowed M.M. to be under the supervision of, or in the care, custody, or control of, the Archdiocese, Sacred Heart, or Father Manzione if the Archdiocese or Sacred Heart had disclosed to M.M. or his parents that Father Manzione was not safe and was not trustworthy, and that he in fact posed a danger to M.M. in that Father Manzione was likely to sexually abuse him.

58. From approximately 1976 through 1979, Father Manzione exploited the trust and authority vested in him by defendants by grooming M.M. to gain his trust and to obtain control over him as part of Father Manzione's plan to sexually molest and abuse M.M. and other children.

59. Father Manzione used his position of trust and authority as a priest of the Archdiocese and of Sacred Heart to groom M.M. and to sexually abuse him multiple times, including when M.M. was under the supervision of, and in the care, custody, or control of, the Archdiocese, Sacred Heart, and Father Manzione.

60. At certain times, the sexual abuse of M.M. by Father Manzione occurred at Sacred Heart, including in the choir loft.

61. At certain times, Father Manzione's sexual abuse of M.M. occurred during activities that were sponsored by, or were a direct result of activities sponsored by, the Archdiocese and Sacred Heart, including when M.M. served as an altar boy.

62. Upon information and belief, prior to the times mentioned herein, Father Manzione was a known sexual abuser of children.

63. Upon information and belief, at all relevant times defendants, their agents, servants, and employees, knew or should have known that Father Manzione was a known sexual abuser of children.

64. Upon information and belief, at all relevant times it was reasonably foreseeable to defendants, their agents, servants, and employees that Father Manzione's sexual abuse of children would likely result in injury to others, including the sexual abuse of M.M. and other children by Father Manzione.

65. Upon information and belief, at certain times between 1976 and 1979, defendants, their agents, servants, and employees knew or should have known that Father Manzione was sexually abusing M.M. and other children at Sacred Heart and elsewhere.

66. Upon information and belief, defendants, their agents, servants, and employees knew or should have known that the sexual abuse by Father Manzione of M.M. was ongoing.

67. Upon information and belief, the Archdiocese and Sacred Heart, their agents, servants, and employees, knew or should have known before and during Father Manzione's sexual abuse of M.M. that priests and other persons serving the Archdiocese and Sacred Heart had used their positions with those defendants to groom and to sexually abuse children.

68. Upon information and belief, the Archdiocese and Sacred Heart, their agents, servants, and employees, knew or should have known before and during Father Manzione's sexual abuse of M.M. that such priests and other persons could not be "cured" through treatment or counseling.

69. Upon information and belief, the Archdiocese and Sacred Heart, their agents, servants, and employees, concealed the sexual abuse of children by Father Manzione in order to conceal their own bad acts in failing to protect children from him, to protect their reputation, and to prevent victims of such sexual abuse by him from coming forward during the extremely limited statute of limitations prior to the enactment of the CVA, despite knowing that Father Manzione would continue to molest children.

70. Upon information and belief, the Archdiocese and Sacred Heart, their agents, servants, and employees, consciously and recklessly disregarded their knowledge that Father Manzione would use his position with the defendants to sexually abuse children, including M.M.

71. Upon information and belief, the Archdiocese and Sacred Heart, their agents, servants, and employees, disregarded their knowledge that Father Manzione would use his position with them to sexually abuse children, including M.M.

72. Upon information and belief, the Archdiocese and Sacred Heart, their agents, servants, and employees, acted in concert with each other or with Father Manzione to conceal the

danger that Father Manzione posed to children, including M.M., so that Father Manzione could continue serving them despite their knowledge of that danger.

73. Upon information and belief, the Archdiocese and Sacred Heart, their agents, servants, and employees, knew that their negligent, reckless, and outrageous conduct would inflict severe emotional and psychological distress, as well as personal physical injury, on others, including M.M., and he did in fact suffer severe emotional and psychological distress and personal physical injury as a result of their wrongful conduct.

74. Upon information and belief, the Archdiocese and Sacred Heart, their agents, servants, and employees, concealed the sexual abuse of children by priests and others in order to conceal their own bad acts in failing to protect children from being abused, to protect their reputation, and to prevent victims of such sexual abuse from coming forward during the extremely limited statute of limitations prior to the enactment of the CVA, despite knowing that those priests and other persons would continue to molest children.

75. By reason of the wrongful acts of the Archdiocese and Sacred Heart as detailed herein, M.M. sustained physical and psychological injuries, including but not limited to, severe emotional and psychological distress, humiliation, fright, dissociation, anger, depression, anxiety, family turmoil and loss of faith, a severe shock to his nervous system, physical pain and mental anguish, and emotional and psychological damage, and, upon information and belief, some or all of these injuries are of a permanent and lasting nature, and M.M. has and/or will become obligated to expend sums of money for treatment.

VI. CAUSES OF ACTION AS TO PLAINTIFF M.M.

A. FIRST CAUSE OF ACTION – NEGLIGENCE

76. Plaintiff M.M. repeats and re-alleges all of his allegations above and below.

77. The Archdiocese and Sacred Heart had a duty to take reasonable steps to protect plaintiff M.M., a child, from foreseeable harm when he was under their supervision and in their care, custody, and control.

78. The Archdiocese and Sacred Heart also had a duty to take reasonable steps to prevent Father Manzione from using the tasks, premises, and instrumentalities of his position with the defendants to target, groom, and sexually abuse children, including M.M.

79. The Archdiocese and Sacred Heart were supervising M.M., and had care, custody, and control of M.M., when he served as an altar boy and at other times, during which time those defendants had a duty to take reasonable steps to protect him.

80. These circumstances created a special relationship between the Archdiocese and M.M., and between Sacred Heart and M.M., which imposed on each of those defendants a duty to exercise the degree of care of a parent of ordinary prudence in comparable circumstances.

81. The Archdiocese and Sacred Heart breached each of the foregoing duties by failing to exercise reasonable care to prevent Father Manzione from harming M.M., including sexually abusing him.

82. In breaching their duties, including hiring, retaining, and failing to supervise Father Manzione, giving him access to children, entrusting their tasks, premises, and instrumentalities to him, failing to train their personnel in the signs of sexual predation and to protect children from sexual abuse and other harm, failing to warn M.M., his parents, and other parents of the danger of sexual abuse, and failing to create a safe and secure environment for M.M. and other children who were under their supervision and in their care, custody, and control, the Archdiocese and Sacred Heart created a risk that M.M. would be sexually abused by Father Manzione. The Archdiocese

and Sacred Heart through their actions and inactions created an environment that placed M.M. in danger of unreasonable risks of harm under the circumstances.

83. In breaching their duties, including hiring, retaining, and failing to supervise Father Manzione, giving him access to children, entrusting their tasks, premises, and instrumentalities to him, failing to train their personnel in the signs of sexual predation and to protect children from sexual abuse and other harm, failing to warn M.M., his parents, and other parents of the danger of sexual abuse, and failing to create a safe and secure environment for M.M. and other children who were under their supervision and in their care, custody, and control, the Archdiocese and Sacred Heart acted willfully and with conscious disregard for the need to protect M.M. The Archdiocese and Sacred Heart through their actions and inactions created an environment that placed M.M. in danger of unreasonable risks of harm under the circumstances.

84. It was reasonably foreseeable that defendants' breach of these duties of care would result in the sexual abuse of M.M.

85. As a direct and proximate result of the acts and omissions of the Archdiocese and Sacred Heart, Father Manzione groomed and sexually abused M.M., which has caused M.M. to suffer general and special damages as more fully described herein.

B. SECOND CAUSE OF ACTION – OUTRAGE AND INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

86. Plaintiff M.M. repeats and re-alleges all of his allegations above and below.

87. The Archdiocese and Sacred Heart engaged in reckless, extreme, and outrageous conduct by providing Father Manzione with access to children, including plaintiff M.M., despite knowing that he would likely use his position to groom and to sexually abuse them, including M.M. Their misconduct was so shocking and outrageous that it exceeds the reasonable bounds of

decency as measured by what the average member of the community would tolerate and demonstrates an utter disregard by them of the consequences that would follow.

88. As a result of this reckless, extreme, and outrageous conduct, Father Manzione gained access to M.M. and sexually abused him.

89. The Archdiocese and Sacred Heart knew that this reckless, extreme, and outrageous conduct would inflict severe emotional and psychological distress, including personal physical injury, on others, and M.M. did in fact suffer severe emotional and psychological distress and personal physical injury as a result, including severe mental anguish, humiliation and emotional and physical distress.

VII. CPLR 1603 – NO APPORTIONMENT OF LIABILITY

90. Pursuant to CPLR 1603, the foregoing causes of action are exempt from the operation of CPLR 1601 by reason of one or more of the exemptions provided in CPLR 1602, including but not limited to, CPLR 1602(2), CPLR 1602(5), 1602(7) and 1602(11), thus precluding defendants from limiting their liability by apportioning some portion of liability to any joint tortfeasor.

VIII. PRAYER FOR RELIEF

91. Plaintiff M.M. demands judgment against the defendants named in his causes of action, together with compensatory and punitive damages to be determined at trial, and the interest, cost and disbursements pursuant to their causes of action, and such other and further relief as the Court deems just and proper.

92. M.M. specifically reserves the right to pursue additional causes of action, other than those outlined above, that are supported by the facts pleaded or that may be supported by other facts learned in discovery.

Dated: August 20, 2019

Respectfully Yours,

MARSH LAW FIRM PLLC

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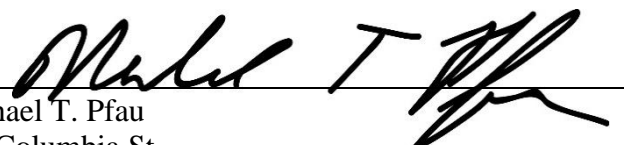
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